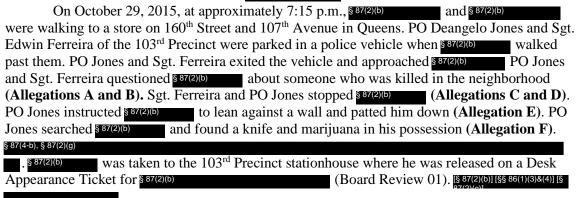
# CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	: CCRB Case #: Force Discourt. U.S.		U.S.	
Diana Arreaga		Squad #2	201509299	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Thursday, 10/29/2015 7:15 PM		160th Street and 107th Avenue		103	4/29/2017	4/29/2017
Date/Time CV Reported		CV Reported At: How CV Reported:		Date/Time Received at CCRB		RB
Mon, 11/02/2015 8:21 AM		CCRB Phone		Mon, 11/02/2015 8:21 AM		
Complainant/Victim	Type	Home Addre	SS			
Witness(es) Home Address						
Subject Officer(s)	Shield	TaxID	Command			
1. POM Deangelo Jones	02393	935080	103 PCT			
2. SGT Edwin Ferreira	04052	932638	103 PCT			
Officer(s)	Allegatio	on		Inve	estigator Recon	nmendation
A.POM Deangelo Jones	Abuse: PO Deangelo Jones questioned § 87(2)(b)					
B.SGT Edwin Ferreira	Abuse: Sgt. Edwin Ferreira questioned § 87(2)(b)					
C.SGT Edwin Ferreira	Abuse: Sgt. Edwin Ferreira stopped § 87(2)(b)					
D.POM Deangelo Jones	Abuse: PO Deangelo Jones stopped §87(2)(b)					
E.POM Deangelo Jones	Abuse: PO Deangelo Jones frisked § 87(2)(b)					
F.POM Deangelo Jones	ones Abuse: PO Deangelo Jones searched §87(2)(b)					
§ 87(4-b), § 87(2)(g)						

#### **Case Summary**



#### Mediation, Civil and Criminal Histories

- Mediation was offered to but rejected by §87(2)(b)
- As of December 2, 2015, \$87(2)(b) has not filed a Notice of Claim regarding this incident (Board Review 02).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Civilian and Officer CCRB Histories**

- \$87(2)(b) has filed one previous CCRB complaint with a total of one allegation of physical force. \$87(2)(b)
- PO Jones has been a member of the NYPD for 11 years and has had four previous CCRB allegations involving three cases with no substantiated allegations (see officer history).
- Sgt. Ferreira has been a member of the NYPD for 12 years and has had twenty-three allegations involving eight cases with no substantiated allegations (see officer history).

#### **Potential Issues**

 Video footage regarding the incident was requested from VIPER through IAB on November 9, 2015. The undersigned contacted VIPER on December 15, 2015, to follow up with the request and was informed that the initial request was never received from IAB; IAB followed up on the request. On December 21, 2015, IAB responded that they were unable to retrieve video footage from the VIPER terminal since the request was over 30 days.

### Findings and Recommendations

### **Explanation of Subject Officer Identification**

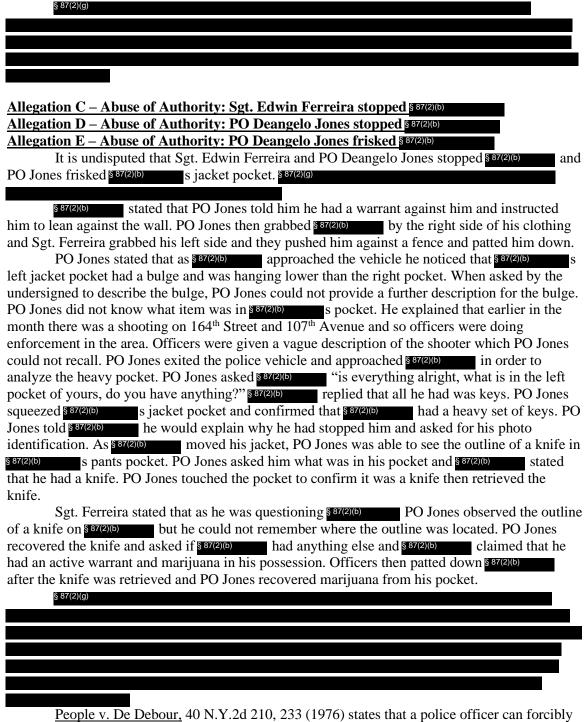
alleged that PO Jones questioned, frisked, and searched him. PO Deangelo Jones admitted to questioning, stopping, frisking, and searching \$87(2)(5)

Sgt. Edwin Ferreira admitted to

Page 2

questioning \$87(2)(b) \$87(2)(g) the supervising officer during the incident; \$87(2)(g)	. Sgt. Ferreira was
Allegation A – Abuse of Authority: PO Deangelo Jones questioned 887(2)(b)  Allegation B – Abuse of Authority: Sgt. Edwin Ferreira questioned 887(2)(b)  It is undisputed that PO Deangelo Jones and Sgt. Edwin Ferreira ques	tioned § 87(2)(b)
stated that he was walking with his friend stated of near the corner of 107 <sup>th</sup> Avenue and 160 <sup>th</sup> Street. PO Jones, who was inside of questioned him about someone who was killed in the neighborhood. stoward that he had continued to walk.  PO Jones stated that as he was driving southbound on 160 <sup>th</sup> Street, Sg that he had observed something unusual and instructed him to drive closer to the Street and 107 <sup>th</sup> Avenue. PO Jones observed two individuals walk south bound then made a left turn onto 107 <sup>th</sup> Avenue. PO Jones sped up the vehicle and mat 107 <sup>th</sup> Avenue. When the two individuals saw the officers behind them they questions.	did not explain and no information  t. Ferreira told him the corner of 160 <sup>th</sup> d on 160 <sup>th</sup> Avenue and a left turn onto
walked in different directions. PO Jones drove up to \$37(2)(5) since he was vehicle although he was still walking and asked him how he was doing and if alright. \$37(2)(5) crossed the street on 107 <sup>th</sup> Avenue and approached the poreplied that everything was fine.	closer to the police everything was lice vehicle and
Sgt. Ferreira stated that as PO Jones drove the police vehicle northeas near 107 <sup>th</sup> Avenue, he observed engage in a conversation with a k in the area about twenty feet away. Sgt. Ferreira saw street exchange so other individual but could not see exactly what was exchanged. PO Jones drove individuals and Sgt. Ferreira ordered him to make a U-turn and return to the two streets and the individual parted ways in separate directions and officers approximate he was still on scene while the other individual had left. Sgt. Ferreira way vehicle when he told streets if he could ask him something. Sgt. Ferreira	mething with the we past the two wo individuals. Scached \$87(2)(b) as still in the police and PO Jones
exited their vehicle and approached S37(2)(b)  Sgt. Ferreira asked S37(2)(b)  the individual whom he was seen speaking with earlier.  People v. Hollman 79 N.Y.2d 191 (1992) states that an officer cannot questions without founded suspicion of criminality (Board Review 05).  S37(2)(9)	

Page 3



<u>People v. De Debour,</u> 40 N.Y.2d 210, 233 (1976) states that a police officer can forcibly stop and detain a person when the officer has a reasonable suspicion that the person has

Page 4

committed, is committing, or is about to commit a felony or misdemeanor. A police officer has the authority to frisk an individual if the officer reasonably suspects that the person is armed and dangerous (Board Review 06). <u>U.S. v Jackson</u>, No. 15-CR-106 (JPO) (S.D.N.Y., July 29, 2015) states that cases where a "bulge" in a suspect's clothing justifies a frisk require that the bulge's size, shape, and placement justify the conclusion "that is, the reasonable suspicion" that the bulge is a weapon; unidentifiable or amorphous bulges have repeatedly been held to be an insufficient basis for a frisk (Board Review 07). <u>People v. Marine</u>, 536 N.Y.S.2d 425 (1989-1<sup>st</sup> Dept.) states that a frisk may not be predicated merely upon the observation of an indefinable bulge and the reputation of a location (Board Review 08). <u>People v. Hampton</u>, 200 A.d.2d 466 (1994) states that innocuous behavior, albeit in a high crime area, does not generate a founded or reasonable suspicion that criminality is afoot (Board Review 09). <u>People v. Ransom, 46 Misd.</u> 3d 1224(A) (Bronx County, March 6, 2015) states that vague descriptions or generic descriptions of a subject which could apply to numerous individuals cannot form the basis of reasonable suspicion (Board Review 10). <u>People v. Dubinsky</u>, 734 N.Y.S.2d 245 (2001-2<sup>nd</sup> Dept.) states that vague and general descriptions are not sufficient to constitute reasonable suspicion (Board Review 11).

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	§ 87(2)(g)			
	10.11			

Page 5

§ 87(2)(g)
Allegation F – Abuse of Authority: PO Deangelo Jones searched 887(2)(b)
It is undisputed that PO Jones searched § 87(2)(b) § 87(2)(g)
I '' 11 PO I 1 11' 'C' 1 / / / / PO I 1 11' '
Initially, \$87(2)(b) stated during his verified statement that PO Jones placed him in handcuffs. PO Jones and Sgt. Ferreira searched his pockets and found his photo identification, a
folding knife, keys and a wallet; officers also searched his shoes and socks. During a follow-up
phone statement, he stated that an officer put his hands into his pocket then asked him what he
had on his person. §87(2)(b) responded that he had a knife in his back pocket that he used for
work and took it out to show the officers.
PO Jones stated that he told \$87(2)(b) he would explain why he had stopped him and
requested his photo identification. As \$87(2)(b) moved his jacket from his right side to retrieve
his wallet from his pants pocket, PO Jones was able to see the outline of a knife approximately 3
- 4 inches in length inside of ₹87(2)(b) s pants pocket. PO Jones told ₹87(2)(b) to stop
entering his pockets and asked if he had anything else on him that he shouldn't have and
ser(2)(b) replied that he had a knife and a joint. PO Jones touched ser(2)(b) s pocket after services and a joint.
sor(2)(b) admitted to having a knife, felt the knife, and removed it from his pocket. PO Jones
flipped the knife and saw that it was a gravity knife. PO Jones then recovered a marijuana joint from \$87(2)(0) seems to left side pocket. Sgt. Ferreira corroborated that PO Jones observed the outline
of a knife on §87(2)(b) and after PO Jones retrieved the knife he asked §87(2)(b) if he had
anything else on his person. §87(2)(b) stated that he had an active arrest warrant and marijuana.
PO Jones then retrieved marijuana from \$87(2)(b) s pocket.
Patrol Guide Procedure 212-11 states that a uniformed member of service can search, if
frisk reveals object which may be a weapon (Board Review 12).
§ 87(2)(g)

Page 6

§ 87(2)(g)			
§ 87(2)(g), § 87(4-b)			
(3/(2)(g), § 6/(4-6)			
Squad: 2			
Investigator:			
Signature	Print	Date	_
Pod Leader:			
Title/Signature	Print	Date	
Attorney:			
Title/Signature	Print	Date	_

# Page 7